

**NOT TO BE PUBLISHED**

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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
(Tehama)**

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THE PEOPLE,

Plaintiff and Respondent,

v.

STUART EUGENE FROMAN,

Defendant and Appellant.

C087868

(Super. Ct. Nos. 17CR001153,  
17CR001651, 17CR002020)

Appointed counsel for defendant Stuart Eugene Froman has filed an opening brief that sets forth the facts of his three cases and asks this court to review the record to determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) After reviewing the record, we affirm the judgment.

We provide the following brief description of the facts and procedural history of the cases. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

In case No. 17CR001153, an information filed May 31, 2017, charged defendant with failure to appear (Pen. Code, § 1320.5)<sup>1</sup> and alleged defendant committed the offense while out on bail on his own recognizance (§ 12022.1). On June 2, 2017, defendant pleaded guilty to failure to appear, in return for the prosecutor's dismissal of the on-bail enhancement and charges alleged in other pending cases. On June 26, 2017, the trial court suspended imposition of sentence and placed defendant on five years of probation, on terms and conditions including 120 days in county jail and 80 hours of community service.

In case No. 17CR001651, a felony complaint filed June 22, 2017, charged defendant with possession of metal knuckles (§ 21810—count I), unlawfully carrying a concealed dirk or dagger (§ 21310—count II), misdemeanor possession of methamphetamine (Health & Saf. Code, § 11377—count III), and misdemeanor possession of a pipe and paraphernalia used for smoking a controlled substance (Health & Saf. Code, § 11364—count IV). On September 5, 2017, defendant pleaded guilty to count II. The trial court placed defendant on three years of probation subject to terms and conditions that included 90 days in county jail, and dismissed the balance of the complaint.

In case No. 17CR002020, a felony complaint filed August 8, 2017, charged defendant and a codefendant with being a felon in possession of a firearm (§ 29800, subd. (a)—count I), being a felon in possession of ammunition (§ 30305, subd. (a)—count II), unlawfully carrying a concealed weapon in a vehicle (§ 25400, subd. (a)(1)—count III), and unlawfully carrying a concealed dirk or dagger (§ 21310—count IV). On September 5, 2017, defendant pleaded guilty to count II. The trial court placed defendant

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<sup>1</sup> Undesignated statutory references are to the Penal Code.

on three years of supervised probation, subject to terms and conditions including 90 days in county jail, and dismissed the balance of the complaint.

The parties stipulated that the factual basis for defendant's plea in case No. 17CR001153 was found in the trial court's file, which showed that he had pleaded guilty to being a person charged with the offense of felon in possession of a firearm, being released from custody on bail, and willfully and unlawfully failing to appear in court on December 13, 2016. As to the other two cases, the parties stipulated that the factual basis could be taken from the Tehama County Sheriff's Department's reports. The report in case No. 17CR001651 stated that in the early morning of May 12, 2017, an officer, after placing defendant under arrest for outstanding misdemeanor warrants, found metal knuckles, a methamphetamine pipe, methamphetamine, a sharpened razor blade knife, and tinfoil with heroin residue on defendant's person. The report in case No. 17CR002020 stated that in the early morning of August 7, 2017, an officer who arrested defendant on an outstanding warrant while he was in a vehicle found a sharpened metal file, a concealed switchblade knife, and a single-edge folding razor on his person, and in the vehicle found another sharpened metal file, a black box containing a glass pipe with methamphetamine residue, a loaded .45-caliber handgun, and hypodermic syringes inside a black pack that also held defendant's wallet and identification.

On August 17, 2017, a petition for revocation of probation was filed in case No. 17CR001153, based on the offense alleged in case No. 17CR002020. On September 5, 2017, defendant admitted the violation of probation.

The trial court revoked and reinstated probation on the same terms and conditions.

On April 26, 2018, a second petition for revocation of probation was filed in case No. 17CR001153, alleging defendant admitted to using heroin and methamphetamine and possessing a controlled substance and drug paraphernalia. A first petition for revocation

of probation in case Nos. 17CR001651 and 17CR002020 was also filed based on these allegations. On June 1, 2018, defendant admitted all of the violations.

On August 17, 2018, an “Amended Petition for Revocation of Probation” was filed in all three cases, alleging that defendant cashed a stolen check at a bank and was in possession of stolen checks; however, the prosecutor withdrew the petition on August 21, 2018.

On August 21, 2018, at the consolidated sentencing proceeding for all three cases, the trial court rejected defendant’s request to be sent to Adult Felony Drug Court, agreeing with the probation department and the Drug Court Team that he was unsuitable because his criminal history stemmed primarily from his attraction to criminality rather than from addiction. The court also denied defendant’s request for reinstatement of probation.

The trial court sentenced defendant to a total state prison term of four years four months, consisting of the upper term sentence of three years for failure to appear (case No. 17CR001153), plus eight months (one-third the middle term) consecutive for possession of a concealed dirk or dagger (case No. 17CR001651) and another eight months consecutive for possession of ammunition (case No. 17CR002020). The court awarded 332 days of presentence custody credits, consisting of 166 actual days and 166 conduct days, all assigned to case No. 17CR001153.

The trial court imposed the previously stayed restitution fine of \$600 (§ 1202.4, subd. (b)) and a matching suspended parole revocation fine as to each case. The court also ordered the immediate payment of the matching probation revocation fines as to each case, probation having been revoked. In addition, the court imposed a \$120 court operations assessment (§ 1465.8) and a \$90 conviction assessment (Gov. Code, § 70373).

We note an error in the abstract of judgment. Defendant pleaded guilty to section 1320.5 in case No. 17CR001153. The abstract reflects a conviction of section 1320, subdivision (b). We will instruct the trial court to correct item 1 of the abstract to indicate section 1320.5.

Defendant appealed. We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende, supra*, 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days have elapsed, and we have received no communication from defendant. Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

### **DISPOSITION**

The trial court is directed to correct item 1 of the abstract to indicate a violation of section 1320.5, rather than section 1320, subdivision (b). In all other respects, the judgment is affirmed. The clerk of court shall send a certified copy of the corrected abstract to the Department of Corrections and Rehabilitation.

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BUTZ, J.

We concur:

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HULL, Acting P. J.

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KRAUSE, J.